

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of XADRIAN VICTORIOUS
TORRES, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

WILFREDO TORRES,

Respondent-Appellant.

UNPUBLISHED
September 8, 2009

No. 290703
Ingham Circuit Court
Family Division
LC No. 08-001310-NA

Before: M. J. Kelly, P.J., and K. F. Kelly and Shapiro, JJ.

MEMORANDUM.

Respondent appeals as of right the trial court's order terminating his parental rights to his son. We affirm.

On appeal, respondent argues that the trial court erred in allowing the mother's plea to establish jurisdiction, citing *In re SLH*, 277 Mich App 662; 747 NW2d 547 (2008). We disagree. We review for clear error the trial court's decision to exercise jurisdiction. *In re BZ*, 264 Mich App 286, 295; 690 NW2d 505 (2004). In order for a child to come within a court's jurisdiction, at least one statutory ground for jurisdiction contained in MCL 712A.2(b) must be proven, either at trial or by plea. See *id.* at 294-295. "The court obtains jurisdiction as a result of a plea if a respondent makes a plea of admission or of no contest to the original allegations in the petition or to the allegations in an amended petition." *In re SLH*, *supra* at 669. A plea establishing jurisdiction may only be made by a respondent against whom allegations have been made. *Id.* at 670.

In this case, the mother admitted to allegations against her contained in the petition. She admitted during the plea hearing that she did not believe that respondent would sexually abuse anybody, that she was unwilling to divorce him until the allegations were proven in a criminal court despite knowing that respondent's accuser, his other minor child, had passed a polygraph examination regarding the sexual abuse, and that she was aware that Child Protective Services was concerned for her child's welfare due to her denial of the allegations against her husband.

These allegations pleaded to by the mother were sufficient to establish jurisdiction under MCL 712A.2(b) and respondent's contention to the contrary is unavailing.¹ Accordingly, we conclude that the trial court did not err by taking jurisdiction over the child based on the mother's plea.

Affirmed.

/s/ Michael J. Kelly
/s/ Kirsten Frank Kelly
/s/ Douglas B. Shapiro

¹ We note in passing that respondent failed to timely object to the trial court's jurisdictional finding and did not appeal the jurisdictional decision until the trial court terminated his parental rights. "Matters affecting the court's exercise of its jurisdiction may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights." *In re SLH, supra* at 669 n 11 (citation and quotation omitted). Thus, even if the trial court improperly exercised jurisdiction based on the mother's plea, respondent nonetheless lost the right to challenge the court's exercise of its jurisdiction.